

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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| DUSTIN GLENN, | : | |
| Petitioner, | : | |
| v. | : | Case No. 3:17-cv-435 |
| PREBLE COUNTY SHERIFF | : | JUDGE WALTER H. RICE |
| DEPARTMENT, <i>et al.</i> , | : | |
| Respondents. | : | |

DECISION AND ENTRY OVERRULING PETITIONER'S OBJECTION
(DOC. #29) TO UNITED STATES MAGISTRATE JUDGE'S DECISION
AND ORDER ON MISCELLANEOUS MOTIONS (DOC. #23);
OVERRULING PETITIONER'S OBJECTION (DOC. #37) TO UNITED
STATES MAGISTRATE JUDGE'S SUPPLEMENTAL REPORT (DOC.
#36)

On March 20, 2018, United States Magistrate Judge Michael R. Merz issued an Order Withdrawing Reports and Recommendation and Ordering Answer; Decision and Order on Miscellaneous Motions. Doc. #23. In that judicial filing, he noted that the Probate Court of Preble County had appointed attorney Jacob Kovach as guardian of the estate of Petitioner Dustin Glenn. He directed the Clerk to add Mr. Kovach as an "interested party" so that Kovach would receive notice of activity in this case. He also invited Mr. Kovach to advise the Court of any facts within his knowledge as guardian which have a bearing on this case. *Id.* at PageID#171.

Petitioner objected to the addition of Kovach as an interested party, and asked that Kovach not be permitted to file anything without copying him and going through Respondent's attorney. Doc. #29. He indicated that he plans to file suit against Kovach under 42 U.S.C. § 1983 alleging fraud, civil conspiracy and other state torts.

On recommitment, Magistrate Judge Merz filed a Supplemental Report, Doc. #36, recommending that the Court overrule Petitioner's objections. He explained that Kovach's designation as an "interested party" simply permitted Kovach to receive *notice* of filings; it did not enable him to file anything. He also noted that Petitioner had not yet filed suit against Kovach and, even if he had, this would not prevent Kovach from seeing filings in this case. Magistrate Judge Merz further explained that any filing must be served on all parties, including Petitioner, and that Petitioner had no right to force his guardian to submit information through Respondent's counsel. *Id.* at PageID##198-99.

Petitioner again filed an Objection, Doc. #37, arguing that Kovach has no stake in his habeas petition and, therefore, should not be listed as an "interested party." He also indicates that the Probate Court has ordered an evaluation, to be conducted prior to his release, to determine whether he needs a guardian.

If and when the Probate Court terminates the guardianship, the Court will remove Mr. Kovach as an "interested party." In the meantime, however, it is advisable that Mr. Kovach be kept abreast of the developments in this case. Accordingly, the Court **OVERRULES** Petitioner's Objection, Doc. #29, to Magistrate

Judge Merz's March 20, 2018, Decision and Order, Doc. #23, and Petitioner's
Objection, Doc. #37, to the Supplemental Report, Doc. #36.

Date: April 25, 2018



WALTER H. RICE
UNITED STATES DISTRICT JUDGE